

City of Horseshoe Bay

BUILDING CODE ORDINANCE

ORDINANCE NO. ORD 06-04-18E

AN ORDINANCE OF THE CITY OF HORSESHOE BAY, TEXAS ADOPTING THE 2003 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE REGULATING AND GOVERNING DETACHED ONE AND TWO FAMILY DWELLINGS AND MULTIPLE SINGLE FAMILY DWELLINGS NOT MORE THAN THREE STORIES IN HEIGHT WITH SEPARATE MEANS OF EGRESS; ADOPTING THE 2003 EDITION OF THE INTERNATIONAL BUILDING CODE REGULATING AND GOVERNING ALL BUILDINGS OR STRUCTURES NOT GOVERNED BY THE RESIDENTIAL CODE; ADOPTING THE 2003 EDITION OF THE NATIONAL ELECTRICAL CODE REGULATING AND GOVERNING ALL RESIDENTIAL ELECTRICAL CONSTRUCTION APPLICATIONS; ADOPTING THE 2003 EDITION OF THE INTERNATIONAL PLUMBING CODE REGULATING AND GOVERNING ALL CONSTRUCTION APPLICATIONS; ADOPTING THE 2003 EDITION OF THE INTERNATIONAL MECHANICAL CODE REGULATING AND GOVERNING ALL MECHANICAL CONSTRUCTION APPLICATIONS; ADOPTING THE 2003 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE REGULATING AND GOVERNING ALL RESIDENTIAL AND COMMERCIAL APPLICATIONS; ISSUANCE OF PERMITS AND COLLECTION OF FEES; ENFORCEMENT, INCLUDING A FINE NOT TO EXCEED \$500.00 AND A CIVIL PENALTY NOT TO EXCEED \$250.00 PER OFFENCE AND OTHER RELIEF; PROVIDING FOR SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING

WHEREAS, the City Council of the City of Horseshoe Bay (City Council) seeks to provide for the safe and orderly development of property within its corporate limits and extraterritorial jurisdiction; and

WHEREAS, the City Council finds that poorly constructed or maintained buildings constitute a nuisance and threat to the public health, safety and welfare; and

WHEREAS, the City Council seeks to protect the citizens of Horseshoe Bay from conditions hazardous to life or property in the occupancy of buildings and premises; and

WHEREAS, the City Council finds it to be in the best interest of the public to provide for a building codes governing and regulating residential and non-residential buildings and structures within the City of Horseshoe Bay (City); and

WHEREAS, the City Council is authorized to regulate construction and prohibit nuisances pursuant to the City's general police powers and Texas Local Government Code Chapters 51, 54 and 217; and

WHEREAS, pursuant to Texas Local Government Code Chapter 214 the City Council is authorized to establish procedures to adopt certain building codes, establish local amendments to such codes, and provide for the administration and enforcement of the codes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, TEXAS:

1. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

2. ENACTMENT

Volume ____, Article ____, Chapter ____ of the City of Horseshoe Bay Code of Ordinances is hereby established so as to read in accordance with Exhibit "A", attached hereto and incorporated into this Ordinance.

3. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

4. SEVERABILITY

Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

5. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED on this 18th day of April, 2006 by a vote of 5(ayes) to 0 (nays) to 0 (abstentions) of the City Council of the City of Horseshoe Bay, Texas.

CITY OF HORSESHOE BAY, TEXAS

Robert W. Lambert, Mayor

ATTEST:

Toni Vanderburg, City Secretary

Exhibit “A”

VOLUME: ____

ARTICLE ____: DEVELOPMENT

CHAPTER ____: BUILDING CODES

SECTION 1. ENACTMENT PROVISIONS

1.1. Popular Name

This Chapter shall be commonly cited as the “Building Code Ordinance.”

1.2. Purpose

This Chapter is adopted so that the City Council may promote the public health, safety, morals and general welfare within the City through the regulation of certain construction activities.

1.3. Scope

The provisions of this Chapter shall apply within the City Limits (i.e., incorporated municipal boundary).

1.4. Permit Fees

No required permit shall be issued until prescribed fees have been paid; nor shall any amendment to a permit be approved until the additional fees, if any, have been paid. Fees for building permits will be that amount listed in Ordinance No. _____, the “Building Permit Ordinance” or a separate Fee Schedule, adopted by separate resolution and which may be amended from time to time by City Council resolution or ordinance.

SECTION 2. DEFINITIONS

2.1. General

Words and phrases used in this Chapter shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the Code. Words and phrases not defined in the Code of Ordinance shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

2.2. Specific

Alter: to make a physical change in or to a building, object, site or structure.

Build: to form by ordering and uniting materials by gradual means into a composite whole. The term includes the acts of developing or expanding upon buildings or structures. The term also includes the installation or placement upon land of a pre-fabricated building including a HUD-Code Manufactured Home. A building permit is required for HUD-Code Manufactured Homes in order to ensure compliance with zoning, setbacks and septic rules. HUD-Code Manufactured Homes are not subject to building code standards for construction unless post-factory additions are made to the structure (including but not limited to porches, garages, decks and additional rooms).

Building: an improvement or change to the property which substantially reduces the permeability of the natural ground underneath the building or structure to absorb rainfall. This term also includes a dwelling, such as a house, barn, church, hotel, or similar structure created to shelter any form of human activity.

Building Inspector: the person appointed by the City to conduct periodic inspections of construction progress to insure that such construction is being conducted consistent with the Building Permit and with prescribed Building Codes and ordinances. The City's building inspector can be a volunteer, employee, agent of another political subdivision, company, corporation, or independent contractor retained by the City.

Building Official: the person appointed by the City Council to receive and review applications for permits and ensure compliance with applicable codes, permits and ordinances. The City's building official can be a volunteer, employee, agent of another political subdivision, company, corporation, or independent contractor retained by the City.

City: the City of Horseshoe Bay, Texas, and includes any designee who is appointed by the City Council to carry out the City's function.

Clear: to make a material change in the character of the land, including but not limited to the extraction of vegetation, removal of brush, cutting of trees, or modification of the natural grade or slope of the land.

Construct: to excavate or grade property in connection with construction of a foundation for any improvement to be located on the land. The term also means to form a building or structure by combining materials or parts.

Demolish: to remove all or part of a building or structure.

Develop: to make a material change in the use or character of the land, including but not limited to the placement of any building or other structure on the land.

Expand: to add any square footage of impervious cover on the building or property, regardless of whether such addition will be covered or uncovered.

Fill: to deposit or stockpile dirt, stone, construction debris or other material in order to modify land or alter current drainage patterns.

Grade: to clear, strip, cut, fill or stockpile dirt, including land in its cut and filled condition, to create new grades or alter current drainage patterns.

Jurisdiction: All references to “jurisdiction” in the codes adopted herein shall mean the City of Horseshoe Bay, located in Burnet and Llano Counties in the State of Texas.

Ordinary Maintenance: activities relating to a property that would be considered ordinary or common for maintaining the property, including but not limited to repairs, or the replacement of materials with identical or in-kind materials. The term expressly omits activities involving the expansion, modification, enlargement, reduction, renovation or remodeling of buildings or structures. The term also omits the cutting away of walls or partitions, cutting or removal of a structural beam or load bearing support; removal or change of means of egress.

Person: any human individual or corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

Remodel: to construct an addition or alter the design or layout of a building or make substantial repairs or alterations so that a change or modification of the entrance facilities, toilet facilities, or vertical access facilities is achieved.

Repair: the maintenance of or the return to a state of utility of a building, object, site or structure.

Structure: a combination of materials to form a construction for use, occupancy, or ornamentation installed on, above, or below the surface of land or water. The term refers to something arranged in a definite pattern of organization. The term includes those functional constructions made usually for purposes other than creating shelter. The term includes but is not limited to roads, streets, sidewalks, porches towers, tanks. The term also includes additions to or expansions of mobile homes, HUD-Code Manufactured Homes, manufactured homes, modular homes, and industrialized housing.

Temporary Structures & Use: the creation of structures or use of land that are limited as to time of service, but shall not be permitted for more than 180 days.

Vacant Lot: land that is undeveloped and unused. The term also includes any area with significant amounts of land not covered by impervious surfaces that is suitable for development or infill.

SECTION 3. COMPLIANCE

3.1. Compliance Required

- (1) It shall be unlawful for any person to alter, build, construct, demolish, erect, extend, install, modify, move, relocate, remodel, or remove a building, site place, or structure in a manner not in compliance with this Chapter.
- (2) It shall be unlawful for any person to grade or fill in a manner not in compliance with this Chapter.
- (3) It shall be unlawful for any person to construct a swimming pool, spa or septic system in a manner not in compliance with this Chapter.

3.2. Applicability

This Chapter shall not apply to properties upon which construction lawfully commenced prior to the adoption of this Chapter. Construction initiated prior to the adoption of this Chapter shall remain subject to building codes applicable at the time construction was initiated, unless the owner opts to comply with this Chapter through written notification to the City.

SECTION 4. VARIANCES

4.1. Authority to Grant Variance

The City Council is hereby authorized to approve variances from this Chapter and the Codes adopted herein.

4.2. Public Hearing

No variance shall be granted without first having given public notice and having held a public hearing on the written variance request in accordance with this Chapter. In order to grant a variance, the City Council must first find:

- (a) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of the land; and
- (b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- (c) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and
- (d) That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Chapter.

4.3. Findings

Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which such variance is granted.

SECTION 5. ENFORCEMENT

5.1. Civil & Criminal Penalties

The City shall have the power to administer and enforce the provisions of this Chapter as may be required by governing law. Any person violating any provision of this Chapter is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Chapter is hereby declared to be a nuisance.

5.2. Criminal Prosecution

Any person violating any provision of this Chapter shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00), except as may be otherwise expressly provided herein or by state law. Each day that a provision of this Chapter is violated shall constitute a separate offense. An offense under this Chapter is a misdemeanor.

5.3. Civil Remedies

Nothing in this Chapter shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Chapter and to seek remedies as allowed by law, including, but not limited to the following:

- (a) injunctive relief to prevent specific conduct that violates the Chapter or to require specific conduct that is necessary for compliance with the Chapter;
- (b) a civil penalty up to two hundred fifty dollars (\$250.00) a day when it is shown that the defendant was actually notified of the provisions of the Chapter and after receiving notice committed acts in violation of the Chapter or failed to take action necessary for compliance with the Chapter; and
- (c) other available relief.

6. RESIDENTIAL BUILDING CODE

6.1. Code Adopted

The City Council hereby adopts the "International Residential Code", 2003 edition, regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings

(townhouses) not more than three stories in heights with separate means of egress in the City, as may be amended. Such document, as may be amended, is hereby adopted as the “Residential Building Code” of the City for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to and use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height in the City, and providing for the issuance of permits and collection of fees therefore; and each and all regulations, provisions, conditions and terms of such “International Residential Code”, which is adopted and made a part hereof as if fully set out in this Ordinance. The Residential Building Code shall also include the certain Appendix Chapters as may be designated by the City Council.

6.2. Permit Required

It shall be unlawful for any person to build residential buildings or structures within the City without first applying for and receiving a permit. It shall also be unlawful to build within the City contrary to a permit that has been issued.

6.3. Temporary Structures & Use

The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than one hundred eighty (180) days.

7. COMMERCIAL BUILDING CODE

7.1. Code Adopted

The City hereby adopts a certain document, one (1) copy of which is on file in the office of the City Secretary, being marked and designated as the 2003 edition of the “International Building Code,” published by the International Code Council, Inc., as may be amended. Such document, as may be amended, is hereby adopted as the “Commercial Building Code” of the City for control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Commercial Building Code, which is adopted and made a part hereof as if fully set out in this Ordinance. The Commercial Building Code shall also include the certain Appendix Chapters as may be designated by the City Council.

7.2. Permit Required

It shall be unlawful for any person to build non-residential buildings or structures within the City without first applying for and receiving a permit. It shall also be unlawful to build within the City contrary to a permit that has been issued.

8. NATIONAL ELECTRICAL CODE

8.1. Code Adopted

The City hereby adopts a certain document, one (1) copy of which is on file in the office of the City Secretary, being marked and designated as the 2003 edition of the “National Electrical Code,” as may be amended. Such document, as may be amended, is hereby adopted as the “Electrical Code” of the City, and as such shall apply to all residential electrical construction applications. The City Council may establish procedures for the administration and enforcement of the Electrical Code, and may adopt local amendments to the National Electrical Code.

8.2. Permit Required

It shall be unlawful for any person to perform any electrical work within the City without first applying for and receiving a permit. It shall also be unlawful to perform any electrical work within the City contrary to a permit that has been issued.

9. INTERNATIONAL PLUMBING CODE

9.1. Code Adopted

The City hereby adopts a certain document, one copy of which is on file in the office of the City Secretary, being marked and designated as the 2003 edition of the “The International Plumbing Code,” published by the International Association of Plumbing and Mechanical Officials, as may be amended. Such document, as may be amended, is hereby adopted as the “Plumbing Code” of the City, and as such shall apply to all plumbing construction applications. The City Council may establish procedures for the administration and enforcement of the Plumbing Code, and may adopt local amendments to the International Plumbing Code.

9.2. Permit Required

It shall be unlawful for any person to perform any plumbing work within the City without first applying for and receiving a permit. It shall also be unlawful to perform any plumbing work within the City contrary to a permit that has been issued.

9.3. Compliance Required

Additions, alterations, renovations or repairs to any plumbing system shall conform to that required for a new plumbing system without requiring the existing plumbing system to comply with all the requirements of this code.

10. INTERNATIONAL MECHANICAL CODE

10.1. Code Adopted

The City hereby adopts a certain document, one (1) copy of which is on file in the office of the City Secretary, being marked and designated as the 2003 edition of the “The International Mechanical Code,” as developed by the International Code Council, as may be amended. Such document, as may be amended, is hereby adopted as the “Mechanical Code” of the City, and as such shall apply to all mechanical construction applications. The City Council may establish procedures for the administration and enforcement of the Mechanical Code, and may adopt local amendments to the International Mechanical Code.

10.2. Permit Required

It shall be unlawful for any person to perform any mechanical work within the City without first applying for and receiving a permit. It shall also be unlawful to perform any mechanical work within the City contrary to a permit that has been issued.

11. INTERNATIONAL ENERGY CONSERVATION CODE

The City hereby adopts a certain document, one (1) copy of which is on file in the office of the City Secretary, being marked and designated as the 2003 edition of the “The International Energy Conservation Code.” Such document, as may be amended, is hereby adopted as the “Energy Conservation Code” of the City, and as such shall apply to all residential and commercial construction applications. The City Council may establish procedures for the administration and enforcement of the Energy Conservation Code, and may adopt local amendments to the International Energy Conservation.

12. GRADE & FILL

12.1. Permit Required

It shall be unlawful for any person to grade or fill a vacant lot without first applying for and receiving a permit for such grade and fill from the City in compliance with this Chapter.

12.2. Permit Standards

- (a) In considering whether to issue a grade and fill permit, the City shall require from the applicant a drainage study on the impact of the proposed drainage patterns on neighboring properties and waterways.
- (b) The Applicant must submit information describing the intended use of the property and the necessity for the grade and/or fill improvements.
- (c) A permit for the stockpiling of any dirt or other fill material may only be for a temporary period not to exceed one hundred and eight days (180).

13. PERMIT APPLICATIONS

Permit applications shall be issued and administered in the manner set out in Ordinance No. ORD 06-04-18D, the "Building Permit Ordinance", as may hereafter be amended. To the extent that the provisions of any code adopted herein conflicts with the requirements of Ordinance No. ORD 06-04-18D, the "Building Permit Ordinance", the more stringent requirement shall prevail.

14. EXEMPTIONS

Exemption from the permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Chapter or any other law or ordinance of the City. Permits shall not be required for the following:

- (a) Painting, papering, tiling, carpeting, cabinets, countertops and similar finish work for an existing structure.
- (b) Window awnings supported by an exterior wall which do not project more than fifty four inches (54") from the exterior wall and do not require additional support.
- (c) Minor electrical repairs and maintenance, including the replacement of lamps.
- (d) Use of portable heating, cooling or drying appliances and the replacement of any minor part that does not alter approved equipment or make such equipment unsafe.
- (e) The stopping of leaks in drains, water, waste or vent pipes; provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered construction and a permit shall be obtained and inspection made as provided in this Ordinance.
- (f) The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and re-installation of water closets, provided such repairs do not involve or require the replacement or re-arrangement of valves, pipes or fixtures.
- (g) Where equipment replacement and repairs must be performed in an emergency situation, an Application shall be submitted to the City within three (3) business days after such replacement or repair.
- (h) Ordinary repairs to structures that do not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress. Ordinary repairs shall not include addition to, alteration of, replacement or relocation of any water supply, sewer, drainage line, gas, soil, waste vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
- (i) Replacement of compressors, air handlers or other mechanical devices a part of normal household heating and air conditioning systems.
- (j) Installation of antennas for satellite television or those related to internet connections.

15. EFFECTIVE DATE

This Chapter shall become effective at 12:01 a.m., May 1, 2006, and the rules and regulations set out herein shall apply to Projects where construction is to be initiated after the effective date. Projects initiated prior to the effective date will not be affected hereby. In any situations where it is not clear whether construction has been initiated prior to 12:01 a.m., May 1, 2006, such Project shall be subject to this Chapter save and except where an authorized property owners' association has issued a building permit for such Project.